

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7225 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

PRASHANTKUMAR MANUBHAI

Versus

MANAGER A'BAD NEW COTTON MILLS

Appearance:

MR IA PATEL for Petitioner

MR KS NANAVATI for Respondent No. 1

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 22/10/1999

ORAL JUDGEMENT

1. Learned Advocate Shri I.A. Patel is appearing on behalf of the petitioner and learned advocate Mr. K.S. Nanavati is appearing on behalf of the company.

2. The facts of the present case is that the petitioner workman was working with the respondent company in winding department as Badali Worker. During the service of the petitioner workman in third shift on

6/10/80, some irregularities were committed by the present petitioner workman and he received chargesheet dtd. 7th October, 1981 and ultimately he was dismissed from service on 15/11/81. Thereafter, the petitioner workman had filed approached letter under Sec. 42 Sub-Clause 4 of the Bombay Industrial Relations Act, 1946, on 20/11/81. Thereafter, the petitioner workman had filed application before the Labour Court under the provisions of Sec. 78 and 79 of the Bombay Industrial Relations, Act, before the Labour Court. The Labour Court decided the T. Application NO.442/81 dtd. 9/6/88 and come to the conclusion that considering the misconduct which has been committed by the petitioner workman and considering the past record of the workman concerned, the petitioner workman being a Badali Worker having only three years service, even though he was irregular and having a bad past record, and therefore, the Labour Court has rejected the prayer of reinstatement of the petitioner workman. The Labour Court has further come to the conclusion that to misbehave with the superior officer and to a attack on the superior officer is considered to be a serious misconduct which disturbed the industrial peace in the industry and therefore, the Labour Court has rejected the T. Application by order dtd.9/6/88. The petitioner workman being aggrieved by the said order, approached to the Appellate Industrial Court in Appeal being Appeal I.C. NO. 68/88 under the provisions of Sec. 84 of Bombay Industrial Relations Act, 1946. The Appellate Court has also considered the gravity of the misconduct and past record of the petitioner workman. The Industrial Court has also considered even another factor that during the pendency of the appeal, one proposal was also made by the respondent company that if the petitioner workman gives application to the Company and says sorry for committing the misconduct with the superior officer then the respondent company will consider the case of the petitioner workman to reinstate him as a fresh Badali Worker. But the said condition has not been accepted by the petitioner workman and thereafter, the matter was decided by the Industrial Court on merits. Therefore, in ultimately, the Industrial Court has dismissed the appeal by order dtd. 18/3/89.

3. I have gone through the entire order passed by the Labour Court in T. Application No.442/81 and also order passed by the Industrial Court in Appeal I.C. NO. 68/89. I am satisfied with the view taken by both the courts below which is based on the evidence and discussed the entire evidence which were on record and also the labour court gave reasons in support of their conclusion

and both the Courts below have not committed any error and there is no infirmity in both the orders and therefore, while exercising the powers under Articles 226 and 227 of the Constitution of India, I am of the view that no interference is required in the said petition and therefore, the present petition is dismissed accordingly.

Rule is discharged. No order as to costs.

Sd/-

Date : 22/10/1999. (H.K. RATHOD, J)

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